

LOUISVILLE METRO COUNCIL COMMITTEE MINUTES

Planning/Zoning, Land Design & Development Meeting
Tuesday, May 4, 2010
2:08 P.M.
Third Floor, City Hall

Present:
Chair: CM Jon Ackerson
Vice Chair: CM Johnson (Arrived at 2:45)
Members: CM Stuckel, CM Flood, CM Brent Ackerson
and CM Shanklin

Also Present: CM Heiner

Absent: CM Downard (Excused)

Chairman Jon Ackerson began the meeting by introducing the members and non-members of the committee that were present. A quorum was established.

Pending Legislation

[O-87-04-10 AN ORDINANCE CORRECTING THE LEGAL DESCRIPTION REFERENCED IN ORDINANCE 67, SERIES 2010, REGARDING PLANNING COMMISSION CASE NUMBER 12868.](#)

Status: In-Committee
Committee: Planning/Zoning, Land Design & Development
Primary Sponsor: Jon Ackerson

Motion to Approve made by Glen Stuckel and seconded by Barbara Shanklin.

Discussion: Dawn Warrick, DPDS stated this a correction to a legal description.

This item was sent to **the Consent Calendar**.

VOTING RESULTS: For: 5; Against: 0; Abstain: 0; Absent: 2

For: Barbara Shanklin, Glen Stuckel, Jon Ackerson, Madonna Flood, Brent Ackerson
Against: (None)
Abstain: (None)
Absent: Kelly Downard, Dan Johnson

[O-90-04-10 AN ORDINANCE CHANGING THE ZONING FROM R-4, SINGLE-FAMILY RESIDENTIAL TO R-7, MULTI-FAMILY RESIDENTIAL ON PROPERTY LOCATED AT 2036 BUECHEL BANK ROAD, CONTAINING 4.6 ACRES, OF WHICH 0.89 ACRES ARE PROPOSED TO BE REZONED, AND BEING IN LOUISVILLE METRO \(CASE NO. 13332\).](#)

Status: In-Committee
Committee: Planning/Zoning, Land Design & Development
Primary Sponsor: Jon Ackerson

Motion to Approve made by Glen Stuckel and seconded by Barbara Shanklin.

Discussion: Dawn Warrick, DPDS, spoke to the item. The Planning Commission's Public Hearing was held on April 1, 2010. No one spoke in opposition. The Commission approved the request and made recommendation for approval by the Metro Council. This is in CM Shanklin's District. The following were items of discussion and concern:

- Owned by the Archdioceses of Louisville
- Renovation of a 3 story historic building
- 24 unit Senior Housing
- Surrounding area is residential

- Redevelopment of a historic structure
- Will keep most of the exterior appearance
- Funding

Motion to amend by adding a binding element that would keep this as senior housing made by Barbara Shanklin and seconded by Madonna Flood.

Jonathan Baker, Assistant County Attorney, stated the Council could not distinguish the population.

The motion and second for the amendment was withdrawn.

Motion to Table made by Barbara Shanklin and seconded by Madonna Flood.

By voice vote, this item was **Tabled**.

[O-176-10-09 AN ORDINANCE AMENDING THE PROVISIONS OF CHAPTER 153 OF LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT CODE OF ORDINANCES \(LMCO\) RELATING TO THE TIME AND LOCATION OF PLANNING COMMISSION AND BOARD OF ZONING ADJUSTMENT HEARINGS. \(Re-Introduced March 11, 2010\) \(September 11, 2010\)](#)

Status: In Committee - Tabled
Committee: Planning/Zoning, Land Design & Development
Primary Sponsor: James Peden

Motion to approve made by Glen Stuckel and seconded by Brent Ackerson.

Discussion: Theresa Senninger, Assistant County Attorney and Dawn Warrick, DPDS, were present to speak and answer questions. The following was discussed:

- Groups that met agreed on the changes – Representatives of Board of Zoning Adjustment and Planning Commission attended the meeting
- Important to include language that specifies that the Planning Commission and its committees would be bound by the provisions of this ordinance
- Petition of 300 or more signatures of property owners living within or adjacent to the Council district requesting the meeting to be rescheduled at 6:00 p.m. or later at a more convenient location has to be received no later than 15 days before the scheduled hearing
- Location shall be identified by the Planning Commission or committee with input from the affected District office and petitioners
- Not all places are favorable for a public hearing and it will now be put in writing why they are not favorable
- Criteria that is essential for a location to hold a public hearing is the ability to create an appropriate and legally sufficient record of the proceedings
- First priority in location choice for a rescheduled night hearing will be in the vicinity of the property that is subject to the request
- Second priority in location choice for a rescheduled night hearing will be the government center nearest the property
- Does not majorly change the Planning Commission's present practice
- Need clarification on Committee issues
- Average of about 6 night hearings per year at present
- Process needs to be available and accessible

Motion to Amend in the following areas made by Glen Stuckel and seconded by Madonna Flood.

- The Title
- Section 1
- Section 1 (A)
- Section 1 (B)
- Section 1 (C)

By voice vote, the Amendment passed.

The following was also discussed:

- Time Frames

- Notification

Motion to Amend as follows made by Glen Stuckel and seconded by Madonna Flood.

- Time Frame changed from 4 calendar weeks to 2 calendar weeks

By voice vote, the Amendment passed.

***NOTE: THE ENTIRE AMENDMENT IS ATTACHED AT THE END OF THESE MINUTES**

The following was also discussed:

- Administerial cases vs. discretionary
- Type of cases eligible for a night hearing are discretionary

The Ordinance as Amended was sent to **Old Business**.

VOTING RESULTS: For: 5; Against: 0; Abstain: 0; Absent: 2

For: Barbara Shanklin, Glen Stuckel, Jon Ackerson, Madonna Flood, Brent Ackerson

Against: (None)

Abstain: (None)

Absent: Kelly Downard, Dan Johnson

[O-33-02-10 AN ORDINANCE RELATING TO USE OF PORTABLE STORAGE UNITS AND DUMPSTERS.
\(August 11, 2010\)](#)

Status: In-Committee - Tabled
Committee: Planning/Zoning, Land Design & Development
Primary Sponsor: Brent Ackerson

Motion to Untable made by Glen Stuckel and seconded by Brent Ackerson. By voice vote, this item was untabled.

Discussion: CM Brent Ackerson stated this specifically deals with dumpsters, portable storage units and other devices of that nature. This ordinance is designed to find balance between business and rights of property owners. The following was discussed:

- Trying to put teeth in the law
- Create time tables
- Specifically excludes commercial businesses, apartment complexes units of 6 or more, commercial and residential development and new construction
- Impacts the dumpster industry, portable storage unit industry, and remodelers as well as the people who lives in neighborhoods that have to look at the dumpsters or portable storage units
- Time frames

Chairman Jon Ackerson let speakers address the Committee. Each received two minutes to speak.

One handout was given to the Committee Members. (Attached)

Speakers

- Ron Melton, citizen
 - Complained about a dumpster being in his neighborhood for 14 months
- Chuck Kavanaugh, Home Builders Association
 - Is opposed to the ordinance
 - There must be a simpler solution
 - Difficulty in remodeling
 - Exemption of new construction interpretation
 - Who does the permitting
- David Rateau, Renovation Contractor
 - Is opposed to the ordinance
 - Anti jobs
 - Anti investment
- Jeff Anderson, PODS

- Is opposed to the ordinance
- Will limit business
- Will have to reduce warehousing equipment
- How will permit be obtained
- Cost of permit
- Time frames
- Bryan Slade, National Solid Waste Management Association
 - Responsibility of dumpster
 - Haller cannot assume responsibility for things that happen once the container is on sight. The owner of the dumpster should be responsible.
 - Commandeering of the dumpster
- Gale Lively, Louisville Apartment Association
 - A solution could be reached with a less extensive piece of legislation
- Rue McFarland, Kentucky Real Estate Investors
 - Is opposed to the ordinance
 - Would allow unnecessary cost and time delays
 - Believes there is a simpler way
- Bob Jones, Go Mini's Portable Storage
 - Is opposed to the ordinance
 - Cumbersome for people to get permits in an emergency
 - Time frames are too short
- Tim Corrigan
 - Simpler solution
 - Time frames
 - When does the clock start
 - Move to Property Maintenance Code
 - Standards of Location on containers

Jim Mims, Director of IPL, and Robert Kirchdorfer, Assistant Director of IPL were present to speak and answer questions. The following was discussed:

- Stated this can be enforced
- This is currently in the Land Development Code and that makes it more difficult, to enforce
- Has to go to a planning body instead of the Code Board
- Dumpsters are used for trash and debris from construction sites, PODS are mainly for storage for items while remodeling
- Taking it out of the Land Development Code and putting it in the Property Maintenance Code
 - If violation is in the Land Development Code it is usually remediated by action from the Planning Commission or the Board of Zoning Adjustment and are usually not enforcement matters
 - If in Property Maintenance Code, Complaints could be handled faster
- How would the Board know how long the dumpster or POD was there
- License process for dumpsters or PODS
- Faster compliance if through Property Maintenance
- Time frames for building permit – Doesn't define a time period
 - As long as they are showing that something is being done in 180 days then it can have 180 days added on and if inspected again they can extend another 180 days and so on
- Some things do not have to have a building permit
- Is there any way to force the dumpster to be removed
 - There is some provision for public nuisance
- Having a single ordinance to use for enforcement would be easier
- Need specific guidelines
- Need better clarification
- Informed of 3 or 4 complaints in the last year relating to PODs and dumpsters
- Need name of entity who furnished the dumpster or POD on the dumpster or POD
- Penalty and enforcement
- Time Frames for Dumpsters or PODs to be left on property
- From a business standpoint – they are trying to get the dumpsters out as quick a possible

Motion to Table made by Madonna Flood and seconded by Glen Stuckel.

By voice vote, this item as **Tabled**.

[O-8-01-10 AN ORDINANCE AMENDING CHAPTERS 1, 2, 4 AND 8 OF THE LAND DEVELOPMENT CODE PERTAINING TO SIGNS \(CASE NO. 8503\). \(May 19, 2010\)](#) (Will die in Committee)

Status: In Committee - Tabled
Committee: Planning/Zoning, Land Design & Development
Primary Sponsor: Tom Owen

Theresa Senninger, Assistant County attorney stated that there will be two ordinances relating to signs introduced to take care of the Land Development Code and proposed changes to Chapter 155. **The above ordinance will die in committee.**

Motion to adjourn made by Dan Johnson. Without objection, the meeting adjourned at 3:40 P.M.

***NOTE: Items sent to the Consent Calendar or Old Business will be heard before the full Council at the Metro Council Meeting on May 13, 2010.**

KQG

ORDINANCE NO. _____, SERIES 2010

AN ORDINANCE AMENDING THE PROVISIONS OF CHAPTER 153 OF LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT CODE OF ORDINANCES (LMCO) RELATING TO THE TIME AND LOCATION OF PLANNING COMMISSION ~~AND BOARD OF ZONING ADJUSTMENT~~ HEARINGS (AS AMENDED).

Sponsored by: Councilman James Peden

WHEREAS, the Legislative Council of the Louisville/Jefferson County Metro Government (Metro Council) understands that citizens of Louisville Metro are entitled to reschedule a hearing before the Planning Commission to a more convenient time and location upon receipt of a petition seeking that result, and,

WHEREAS, the Metro Council wishes to afford the same opportunities for all matters that come before the Planning Commission or a committee thereof in a public hearing ~~or meeting~~ context, ~~as well as to matters that come before the Board of Zoning Adjustment~~, and,

WHEREAS, the Metro Council wishes to amend Chapter 153 of the LMCO to bring about this opportunity,

BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:

SECTION I: LMCO Chapter 153 is hereby re-enacted and amended as follows:

§ 153.03 TIME AND LOCATION OF PLANNING COMMISSION ~~AND BOARD OF ZONING ADJUSTMENT~~ PUBLIC HEARINGS ~~AND MEETINGS~~.

(A) When public hearing ~~or public meeting~~ dates are set by the Louisville Metro Planning Commission or a committee thereof ~~or Board of Zoning Adjustment~~, certain requirements must be followed in addition to procedures already in place.

(B) If the hearing ~~or meeting~~ has been scheduled at the Planning Commission ~~or Board of Zoning Adjustment~~ regular place of business, and, if, no later than 15 days before the ~~within 15 days of the~~ scheduled hearing date the Commission or committee thereof ~~or Board shall~~ receives a petition from 300 or more property owners living within the affected Metro Council district and/or adjacent Council districts requesting that the hearing ~~or meeting~~ be rescheduled for a time ~~after~~ 6:00 p.m. or later at a convenient location, ~~then~~ the Planning Commission or committee thereof ~~or Board of Zoning Adjustment~~ shall reschedule the hearing to a location in the vicinity of the property that is the subject of the hearing. The location shall be identified by the Planning Commission or committee thereof with input from the affected Metro Council District Office and petitioners, and the government center nearest the property that is the subject of the hearing shall be considered an appropriate location in all cases. If the Planning Commission is unable to schedule the hearing for the nearest Louisville Metro Government Center, or if circumstances suggest that the Government Center is not the most appropriate location for the hearing, the Planning Commission shall consult with the Metro Council District Office and petitioners to identify a suitable location. The Planning Commission or committee thereof shall ensure that any

location selected for the hearing can support a hearing, including the creation of a legally sufficient record of the proceedings. If a location suggested by the Council District Office or petitioners is rejected as inappropriate, the Planning Commission or committee thereof shall document in writing the reasons why the location is not suitable for the hearing. ~~The determination of what constitutes a suitable location in the event the nearest Louisville Metro Government Center is not available shall rest solely with the Planning Commission or its designee.~~ In the event the nearest Louisville Metro Government Center is the Planning Commission's or committee's regular place of business, the Commission or committee thereof shall not be required to hold the rescheduled meeting at an alternative location, but may ~~shall~~ schedule the meeting for 6:00 p.m. or later at its regular place of business. ~~or meeting.~~

(C) Should the Planning Commission or committee thereof ~~or Board of Zoning Adjustment~~ find the aforesaid necessary petition to be defective in any manner or if the Planning Commission or committee ~~or Board of Zoning Adjustment~~ is unable to reserve the nearest Louisville Metro Government Center or another suitable location a suitable location for the hearing ~~or meeting~~ within ~~four~~ two calendar weeks after the originally scheduled hearing ~~or meeting~~ date, then the Planning Commission or committee ~~or Board of Zoning Adjustment~~ may hold the hearing ~~or meeting~~ at their ~~its~~ regular place of business but at 6:00 p.m. or later ~~after 6:00 p.m.~~

SECTION II: This Ordinance shall take effect on passage and approval.

Kathleen J. Herron
Metro Council Clerk

Thomas L. Owen
President of the Council

Jerry Abramson
Mayor

Approved: _____
Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

By: _____